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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/580,493 12/29/95 BERNA

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EXAMINER

BRYANT, D

ART UNIT	PAPER NUMBER
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3726

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AIR MAIL

DATE MAILED:

06/12/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Advisory Action

Application No.

08/580,493

Applicant(s)

BERNA, PHILIPPE J.H.

Examiner

David P. Bryant

Art Unit

3726

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 5/17/01 & 5/22/01 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either a timely filed amendment which places the application in condition for allowance or a Notice of Appeal. Alternatively, applicant may obtain further examination by timely filling a request for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d).

PERIOD FOR REPLY [check only a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ In view of the early submission of the proposed reply (within two months as set forth in MPEP § 707.07 (f)), the period for reply expires on the mailing date of this Advisory Action, OR continues to run from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136 (a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked.

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees.
3. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search. (see NOTE below);
 - (b) ☒ they raise the issue of new matter. (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see attached sheet.

4. ☐ Applicant's reply has overcome the following rejection(s): _____.
5. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
6. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
7. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
8. ☒ For purposes of Appeal, the status of the claim(s) is as follows (see attached written explanation, if any):
- Claim(s) allowed: 1-15.
- Claim(s) objected to: _____.
- Claim(s) rejected: 16-18.
- Claim(s) withdrawn from consideration: _____.

9. ☒ The proposed drawing correction filed on 10 January 2001 a) ☐ has b) ☒ has not been approved by the Examiner.

10. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.

11. ☐ Other: _____.

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Drawings

The proposed drawings, filed 1/10/01, are still deemed to contained new matter. Although applicant has pointed out the corresponding sections of the original specification purported to pertain to the new Figures 12-14, there is not a direct correlation between what is disclosed in those sections of the specification and what is depicted in the new drawings. The original specification was fairly vague, and the new drawings can be construed to be simply one version of many possible versions of the disclosed embodiments. Therefore, the interpretations depicted are considered new matter.

Specification

Upon further review of the substitute specification, filed 1/10/01, it has been determined that it does not contain new matter, and is acceptable.

Claims

The rejection of claims 16-18 under 35 USC 112, second paragraph, have not been overcome by the amendments.



DAVID P. BRYANT
PRIMARY EXAMINER